

MEETING SUMMARY
PEST MANAGEMENT ADVISORY COMMITTEE
September 17, 2003

The forty-fifth meeting of the Pest Management Advisory Committee (PMAC) was held on Wednesday, September 17, 2003, at the Department of Pesticide Regulation, 1001 I Street, Second Floor Training Rooms 1 and 2, Sacramento, California, 95814.

MEMBERS/ALTERNATES PRESENT (Based on Sign-In Sheets):

Paul E Helliker, Director - Dept. of Pesticide Regulation
Paul Gosselin, Chief Deputy Director - Dept. of Pesticide Regulation
Steve Shaffer, California Department of Food and Agriculture
Karen Heisler, U. S. Environmental Protection Agency (EPA), Region 9
Cindy Moore, U.S. Environmental Protection Agency (EPA), Region 9
Frank Carl for Mark Tognazzini, California Agricultural Commissioners and Sealers Association
Rick Roush, UC- Statewide IPM Program
Barry Wilson, UC Davis - Dept. of Environmental Toxicology
Mark Cady, Community Alliance for Family Farmers
Maxwell Norton, UC Cooperative Extension Merced County
Steve Beckley for Robert Ehn, California Plant Health Association
Laurie Nelson, Consumer Specialty Products Association
Andy Kennedy for Robert Curtis, California League of Food Processors
Cynthia Cory, California Farm Bureau Federation
Anne Katten, California Rural Legal Assistance Foundation
Joel Nelsen, California Citrus Mutual
Pete Price, Price Consulting
Kim Crum, California Agricultural Production Consultants Association
William Thomas, Livingston & Mattesich

ABSENT MEMBERS (Based on Sign-In Sheets):

Rick Melnicoe, UC Davis - Director, Dept. of Environmental Toxicology
Rebecca Sisco, UC Davis - Western Region IR-4 Program
Christine Bruhn, UC Davis - Director, Center for Consumer Research
Cliff Ohmart, Lodi Woodbridge Wine Grape Commission
Robert Bugg, UC Davis - SAREP
Terri Olle, Californians For Pesticide Reform
Mark Shelton, California State Polytechnic University, San Luis Obispo
Mel Androus, California Commodity Committee
Robert Baker, Pest Control Operators of California
Steve Pavich, Organic Farmers
Dawit Zeleke, Nature Conservancy Program for Strategic Pest Management
Matt Billings, Association of Natural BioControl Producers

INTERESTED PARTIES PRESENT (Based on Sign-In Sheets):

Robert Roy, USDA-NACS
Judy Letterman, PAPA
Bill Gillespie, REC
Dan Legard, CA Straw. Comm.
Jim Wells, Exponent
Ray Champa, EPA-R9
Barbara Todd, CDFA
Artie Lawyer, TSG
Scott Kohne, Bayer
John Steggall, CDFA
John Pearson, CSI
Barat Bisabri, DOW Agro-Science
Renee Pinel, CPHA
Michael Benjamin, CARB

DPR Staff:
Tobi Jones
Chris Reardon
Glenn Brank
John Sanders
Chuck Andrews
Bob Elliott
Randy Segawa

AGENDA ITEMS

1. INTRODUCTION OF NEW MEMBERS AND OTHERS IN ATTENDANCE AND AMENDMENT TO MEETING SUMMARY.

Paul Helliker (Helliker) opened the meeting with introductions.

2. SURFACE WATER QUALITY ISSUES (Dormant Spray Regulations, Agricultural Discharge Waivers, EPA Policy Statement on NPDES Permits and FIFRA, TMDLs)

Dormant Spray Regulation:

1980's - Separate studies to determine the impact of dormant sprays on water quality in the Sacramento and San Joaquin Rivers by the Central Valley Regional Water Quality Control Board (Board) and by the Department of Pesticide Regulation (DPR) indicated that storm water runoff from dormant orchards treated with diazinon or chlorpyrifos caused toxicity in test organisms.

1990's – DPR encouraged pesticide users and pesticide registrants to reduce the impact of organophosphate insecticides used to treat dormant orchards in the Central Valley

1996 – As a result of a lawsuit settlement, DPR agreed to monitor diazinon and chlorpyrifos used as dormant orchard applications in the Sacramento and San Joaquin Rivers for five years, and then evaluate the impact of these pesticides on water quality.

2002 - DPR staff completed the evaluation of diazinon and chlorpyrifos monitoring data from 1991 to 2001. The evaluation concluded that diazinon, used as a dormant orchard application, was causing toxicity in the rivers. Based on the evaluation, DPR

- developed the regulation package to restrict the use of dormant sprays.
- developed and distributed to county agricultural commissioners Regulatory language and concepts in June for comment.
- staff met with industry stakeholders in July to discuss potential restrictions.

- is in the process of revising the potential restrictions in response to industry comments
- plans future meetings with stakeholders (e.g. industry, public interest groups, state agencies, etc.) after a revision of the potential restrictions is complete in September

Agricultural Discharge Waiver:

The Federal Clean Water Act (CWA) requires that anyone who discharges pollutants into surface water must have a National Pollutant Discharge Elimination System (NPDES) permit. Agriculture is exempt from this provision. However, California water law also regulates certain discharges not covered by the CWA, including discharges from irrigated agriculture. These discharges are handled by filing a Report of Waste Discharge with the appropriate Regional Water Quality Control Board (RWQCB). The RWQCB then sets the Waste Discharge Requirements (WDRs). WDRs usually set discharge and receiving water limits and require monitoring, reporting and specific actions to prevent water quality from being degraded. If the RWQCB believes it's in the best interests of the State, the Board can issue a waiver of waste discharge instead. The term "waiver" is a misnomer since it is usually not a complete exemption from the requirements. Waivers frequently have provisions to protect water. Several RWQCBs, including the Central Valley Regional Water Quality Control Board, have had waivers for irrigated agriculture. Other waivers included such things as swimming pools, timber harvest, and drilling mud. Recent legislation mandated that all waivers sunset and that RWQCBs must reissue each waiver only if still appropriate. DPR has been working with the RWQCBs as they develop new waivers.

Irrigated agriculture. In December 2002, the Central Valley Regional Water Quality Control Board (Board) adopted a waiver of waste discharge for irrigated agriculture. The waiver was rescinded due to legal problems, and a new waiver, along with monitoring and reporting requirements, was adopted on July 11, 2003. DPR met with RWQCB staff before the Board hearing, and encouraged staff to make changes to the draft waiver that would avoid requirements that duplicated the current pesticide use reporting system. DPR Director Paul Helliker testified at the hearing, discussing DPR's authorities and expressing willingness to work with the Board as cooperators in addressing water quality objectives. DPR will continue to work with RWQCB staff to implement the waiver.

Pesticide Total Maximum Daily Loads

DPR staff are in contact with staff of the various regional water quality control boards who are working on pesticide related TMDLs to track their progress and provide assistance if possible. Attached is a table containing the completion schedule of pesticide TMDL elements and the Board staff contact.

3. METHYL BROMIDE (Subchronic Exposure Regulations and Critical use Exemptions)

Subchronic Exposure Regulations

DPR informed the Committee that it will be proposing to permanently adopt methyl bromide field fumigation regulations focusing on mitigating possible acute (short-term) and subchronic (seasonal) methyl bromide exposure hazards to the public and agricultural employees.

In February 2003, a public workshop was held to present staff's analysis of the significant endpoints for subchronic exposures to methyl bromide. DPR solicited comments on the appropriate target value that should be used in the regulations to address subchronic exposures.

In March 2003, DPR established a Methyl Bromide Interagency Work Group (MBIWG) to provide input on the appropriate target value for subchronic exposures, and assist in the development of methyl bromide field fumigation regulations to address short-term and seasonal exposures. The MBIWG included scientific and technical staff from CDFA, OEHHA, ARB, DIR, air pollution control districts, county agricultural commissioners, and the University of California. DPR also met with worker and environmental advocate, grower, methyl bromide manufacturer and applicator representatives to obtain input on proposed changes to the regulations.

DPR will propose to maintain the requirements that were in place that addressed acute (short-term) exposures, and permit and public notification procedures. These requirements include:

- A work site plan be submitted to the CAC a minimum of 9 days prior to the fumigation
- A minimum buffer zone from sensitive sites to address short-term exposures (buffer zones are calculated based on the fumigation method, acreage treated, rate per acre)
- CAC approval of buffer zone sizes and durations based upon local conditions
- Buffer zones prohibited from extending into properties that contain schools, convalescent homes, hospitals, or other similar sites identified by the CAC. The buffer zones may extend across roads, highways, or similar means of travel or sites approved by the CAC
- The size of an application block limited to 40 acres
- Specifications on the methods of application
- Specifications on the type of tarpaulins that can be used and the length of time that they remain in place
- Warning signs be posted during fumigation and restrictions on entry for different tasks
- Work-hour limitations for fumigation handlers, and options to increase hours if respiratory protection is worn
- A mechanism for nearby residents to receive notification
- Notification of property operators around the fumigation site under certain conditions

DPR will propose new requirements to address subchronic (seasonal) exposures. These requirements include:

- Limitation on the pounds of methyl bromide use in any township (A township is a land surveying unit of 36 square miles)
- Modification of requirements for fumigation handling activities, including respiratory protection and adjustments to work-hour limitations

DPR will also propose to add buffer zone tables into the regulations.

DPR will file the proposed regulations with the Office of Administrative Law. The 45-day public comment period should begin in late September 2003 with hearings anticipated in mid-November in Ventura, Salinas, and Sacramento.

For more information about methyl bromide regulations and other facts, click on the following link to our web site: <http://www.cdpr.ca.gov/docs/dprdocs/methbrom/factsheet.htm>

Background on Critical Use Exemptions for Methyl Bromide under the Montreal Protocol and the Clean Air Act

The Montreal Protocol on Substances that Deplete the Ozone Layer lays out processes and timetables for phasing out worldwide substances that deplete ozone from the stratosphere. Methyl bromide was declared to have the potential to deplete ozone in 1992. In 1997, the Parties to the Montreal Protocol developed an accelerated phase out schedule. January 1, 2005 is the final date by which developed countries must phase out methyl bromide production and importation. Developing countries have until 2015 to phase out methyl bromide. The Clean Air Act was amended in 1998 to harmonize the U.S. actions on methyl bromide as an ozone depleter with the Montreal Protocol.

The Parties recognize that methyl bromide users in some countries will need a temporary safety net to transition to alternatives. The critical use exemption (CUE) from the phase out provides additional time for certain end users to make that transition. Critical use exemptions have been granted for certain uses of other designated ozone depleting substances. The Montreal Protocol also allows certain uses of methyl bromide for quarantine and pre-shipment (QPS) treatment of commodities to be exempted from the phase out. USEPA developed regulations to manage these exempted uses of methyl bromide.

The phase out of methyl bromide is being managed by USEPA in cooperation with USDA. USEPA began the process for developing an U.S. CUE application to the Montreal Protocol in 2001 and requested applications from affected users in May 2002. Extensive workshops were held to educate users about the types of information needed to determine critical agricultural need. Individual and consortium applications from around the U.S. were received in fall 2002 and grouped by “sectors” for evaluation of the entire use. Those uses were included in the U.S. application when federal reviewers believed a strong case existed for no technically and economically feasible alternatives.

The U.S. application for exemptions in 2005 and 2006 was filed with the Montreal Protocol Secretariat in January 2003. The sectors included in the application are: food processing; commodity storage; forest seedlings; orchard seedlings; orchard replant; turf and sod; tomatoes; pepper; eggplant; strawberry; strawberry nursery; cucurbits; ornamentals; ginger; transplant trays in certain greenhouse production systems; sweet potatoes. The Parties are scheduled to meet in November 2003 to review the recommendations of its technical committees regarding developed countries’ requests for CUEs. The Parties will determine whether to grant the U.S. CUE for more than one year.

USEPA has begun developing an implementation strategy for CUEs, and held sessions around the country to discuss options for allocating CUEs. USEPA is exploring various models of allocation built around their experience with managing the QPS exemption. Policy direction is dependent on the Parties response to the U.S. application. USEPA will propose regulations to manage the U.S. allocation.

4. AIR QUALITY ISSUES (VOCs and Pesticides in the State Implementation Plan)

Senior Environmental Research Scientist (DPR) Randy Segawa gave an overview of volatile organic compound (VOC) emissions from pesticides. For a complete look at the VOC Emission Program, see our web site: <http://www.cdpr.ca.gov/docs/pur/vocproj/vocmenu.htm>

5. BUDGET: PROGRAM CHANGES IN DPR

The DPR budget that was passed and signed in August was \$58.8 million. The budget authorized an additional \$2.1 million expenditure to our budget level of \$56.7 million to create an outreach program on pesticide safety. With our existing fees and the 17.5 mill assessment rate, the enacted budget required the creation of additional sources of revenue by the end of the Legislative session - September 12, 2003.

The Legislature passed Senate Bill 1049, which establishes new fee schedules for pesticide regulatory programs. The new fees include:

- Mill assessment at 21 mills, raised from 17.5. This increase generates an additional \$1.5 million in 2003-04.
- Sunset clause was removed.
- The allocation for the County Agricultural Commissioners (CAC) remains at 6 mills, plus \$2.8 million for 3765 contracts.
- Statutory authority was given to set licensing, certification and registration fees to cover the costs of those programs. We expect to raise these fees beginning with the 2004 renewals. The licensing fees will generate an additional \$1.1 million in 2003-04. We expect to raise the registration fees once the legislation is signed in 2003-04.

The fees established in SB 1049, in conjunction with the one-time \$5 million in general fund appropriated for our budget, will be adequate to fund our operations this fiscal year.

6. OTHER BUSINESS AND ADJOURN

The committee raised the following issues for the next meeting: (1) The committee wanted a report from the SPCB and/or PCOC regarding the structural use of methyl bromide, (2) The committee voiced concern over their role and wanted a more active part in discussing policy issues.

Requests for copies of the PMAC meeting summary or reports distributed at the PMAC meeting should be directed to Naomi Fualau at (916) 327-4424, via facsimile at (916) 324-1452 or e-mail at <nfualau@cdpr.ca.gov> or may be mailed to:

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